

CITY OF EUGENE HEARINGS OFFICIAL
APPEAL OF EUGENE ADMINISTRATIVE ORDER 58-12-02 AUTHORIZING
THE REMOVAL OF PARKING ON THE SOUTH SIDE OF W. 24TH AVENUE,
BETWEEN CHAMBERS STREET TO FRIENDLY STREET

Application Summary

On February 16, 2012, the Eugene Traffic Engineer promulgated Administrative Order 58-12-02 authorizing the removal of parking on the south side of W. 24th Avenue, between Chambers Street and Friendly Street. On February 17, 2012, written notice of the administrative action was provided to affected property owners and residents located along W. 24th Avenue. The Board of the Friendly Area Neighbors (FAN) filed a timely appeal and the City recognized the Board members as separate appellants.

Appellants

Bernie Corigan
Greg Giesy

Nancy Ellen Locke
Cynthia Kokis

Carlos Barrera

Interested Parties

Steve & Suzie Gordon

Jeff Cook

Appeal History

Hearing Date: May 18, 2012
(Record Held Open Until May 25, 2012)

Decision Date: June 6, 2012

Statement of Criteria

Eugene Code 5.055
Administrative Orders 58-92-01 and 58-12-02

Appeal Deadline

June 27, 2012 Oregon Land Use Board of Appeals

Findings of Fact

1. The Eugene Traffic Engineer adopted Administrative Order 58-12-02 authorizing the removal of parking (35 spaces) on the south side of W. 24th Avenue, between Chambers Street and Friendly Street on February 16, 2012.

Administrative Order 58–12–02 will be implemented in coordination with a pavement preservation project scheduled for W. 24th Avenue. This project will repave W. 24th Avenue, from Chambers to Friendly Street, removing bump-outs (traffic calming devices), and add painted striped bike lanes on the north and south sides of the street. To offset the traffic calming effect of the bump-outs, no centerline will be painted.

2. Eugene Code 5.040 authorizes the City Manager, or the City Manager's designee, to adopt rules necessary for the administration and enforcement of the provisions of the Eugene Code. Section 5.040(1)(h)(5) authorizes the removal of parking by administrative action. Section 5.055 of the Eugene Code specifies the criteria to be considered when the City Manager or the City Manager's designee takes a traffic control-related administrative action.
3. Through Administrative Order 58–00–29, the Eugene City Manager has appointed Tom Larsen as Eugene Traffic Engineer and delegated to Mr. Larsen the authority to exercise all duties and responsibilities granted to the City Manager by Eugene Code 5.040, 5.050, 7.450, 7.410 and 9.538(6)(d).
4. Eugene Administrative Order 58–92–01 specifies the procedures for appealing traffic control administrative actions.
5. The City Traffic Engineer gave notice, in terms of a December 1, 2011 and January 5, 2012 public meetings and a mailing of a survey, regarding the potential for removing one side of on-street parking from Chambers Street to Friendly Street as a part of the "24th Avenue Street Rehabilitation Project" prior to the adoption of Administrative Order 58–12–02.

Subsequent to the adoption of Administrative Order 58–12–02, the Eugene Traffic Engineer sent notice to "Residents of 24th Avenue" of the adoption of the adoption of the administrative order, a description of the administrative action, the deadline for appeal, how to get information on appeal procedures, and the result of not meeting the appeal deadline.

6. The City of Eugene has adopted a transportation system plan (TransPlan), that includes a project (#121) for the addition of striped bike lanes or bike route on W. 24th Avenue, from Chambers to Jefferson Streets.

West 24th Avenue has been designated as a major collector street by Eugene Ordinance No. 20181. Through Resolution 4608, the Eugene City Council has adopted design standards and guidelines for Eugene streets, sidewalks, bikeways and accessways. Consistent with the City Arterial Collector Street Plan, the resolution makes bike lanes a standard feature and parking an optional feature on streets. The Eugene Pedestrian and Bicycle Master Plan, accepted by the Eugene City Council but not yet adopted or incorporated into TransPlan, calls for adding

bike lanes on West 24th Avenue from Chambers to Jefferson (Project No. 4). This location was not designated as a bike route because of the existing bump-outs.

The Eugene Climate and Energy Action Plan seeks to limit unnecessary vehicle travel and greenhouse gas emissions through reducing the latter to 10 percent below 1990 levels by 2020 and 75 percent below those levels by 2050.

7. Oregon Administrative Rule (OAR) Chapter 660, Division 12 is known as the "Transportation Planning Rule." OAR 660-012-0020 states that a transportation system plan shall include the elements that require that "...the layout of local streets shall provide for safe and convenient bike and pedestrian circulation necessary to carry out OAR 660-012-045(3)(b)." Section 045(3)(b) calls for local government to adopt land use regulations and to provide on-site facilities that "ensure that new development provides on-site streets and accessways that provide reasonably direct routes for pedestrian and bicycle travel in areas where pedestrian and bicycle travel is likely if connections are provided, and which avoids wherever possible levels of automobile traffic which might interfere with or discourage pedestrian or bicycle travel."
8. Historical speed data indicate that 85 percent of the vehicle speed on W. 24th Avenue has dropped just over two miles per hour. Only one 24-hour period of speed and volume data was collected at three sides during the design process for the pavement preservation project on W. 24th Avenue. The original installation of the bump-outs was based upon four speed studies, done in the late 1990s, that totaled three hours and 20 minutes of data.
9. There are an estimated 137 parking spaces on the north side of W. 24th Avenue and 108 parking spaces on the south side.¹ An analysis of eleven parking surveys of W. 24th Avenue indicates that, on the average, 10 percent of the available space on the north side was used and 8 percent of the available space on the south side was used. All residential properties on W. 24th Avenue have driveways and off-street parking. On the average, nine or ten cars would be displaced from south to north if parking is removed from the south side. If the existing peak residential parking demand on the south side was transferred from the south to the north side, it would use less than half of the available north side parking spaces.

These parking surveys were taken in December of 2011, a time when use of Graham Field on the north side of W. 24th Avenue is at its minimum. Eugene Parks and Open Space staff estimated that demand for parking on W. 24th Avenue would probably be limited to a May through August timeframe and would be most significant only when events were using the southern field. The primary parking for sports events is on Polk Street and in the Kidsports parking lot.

¹ Thirty-five of these latter spaces are located across W. 24th Avenue from Graham Field.

10. Existing bump-outs on W. 24th Avenue are potentially hazardous to cyclists as they force vehicles and bikes to utilize the same pavement in those areas.
11. West 22nd Avenue has been proposed as an alternate route to the proposed removal of parking along W. 24th Avenue. Currently, the bike route along W. 22nd Avenue is not continuous, and has issues with crossing through a grade school and parks properties and does not provide a direct connection from Chambers to Friendly Streets.

Decision

THE APPEAL OF EUGENE ADMINISTRATIVE ORDER NO. 58–12–02 IS DISMISSED.

Justification for the Decision

The appellants have raised a number of issues in their challenge to Administrative Order No. 58–12–02, many of which were related to the community outreach that supported the use of bump-outs for traffic calming. Eugene Code Section 5.040(1)(h)(6) gives the city manager's designee (the Traffic Engineer) the authority to remove or alter parking areas. The approval criteria required by Eugene Code 5.055 for an administrative action does not require that the Traffic Engineer make the "best" decision or the "most reasonable" decision but rather only that he or she consider (*emphasis mine*) fourteen factors in that decision-making process. It is clear from the written and oral testimony from the Traffic Engineer that these factors had been considered in his decision. A summary of this analysis is as follows:

Eugene Code 5.055

(a) Traffic engineering principles and traffic investigations.

The City's Traffic Engineer's consideration of this factor focused on the circumstance that W. 24th Avenue is designated as a Major Collector by the City Arterial Collector Street Plan. This plan has bike lanes as a standard feature on major collectors but provides that parking spaces are merely optional. The traffic engineer further considered that bike lanes on W. 24th Avenue are an important link in the city's bike lane network and that the existing configuration of bump-outs and low parking utilization create a weave/merge behavior that is unsafe for bicyclists. Finally, speed and volume data was collected that showed a continuation of a 15-year trend of declining traffic volume on the street and that current speed patterns remain too low to qualify for the city's traffic calming program.

(b) Standards, limitations, and rules promulgated by the Oregon Transportation Commission or the Oregon Public Utility Commission or their successors.

In adopting the administrative order, the Traffic Engineer considered OAR 660-012-0020 that states that a transportation system plan shall include the elements that require that "...the layout of local streets shall provide for safe and convenient bike and pedestrian circulation necessary to carry out OAR 660-012-045(3)(b)." Section 045(3)(b) calls for local government to adopt land use regulations and to provide on-site facilities that "ensure that new development provides on-site streets and accessways that provide reasonably direct routes for pedestrian and bicycle travel in areas where pedestrian and bicycle travel is likely if connections are provided, and which avoids wherever possible levels of automobile traffic which might interfere with or discourage pedestrian or bicycle travel." The removal of parking spaces to further bike traffic is consistent with this rule.

(c) Other recognized traffic control standards.

In his review of this criterion, the Traffic Engineer noted that West 24th Avenue has been designated as a major collector street by Eugene Ordinance No. 20181 and that through Resolution 4608, the Eugene City Council has adopted design standards and guidelines for Eugene streets, sidewalks, bikeways and accessways. Consistent with the City Arterial Collector Street Plan, the resolution makes bike lanes a standard feature and parking an optional feature on streets.

The Traffic Engineer has pointed out that there are few established "standards" for traffic calming devices, such a bump-outs. He has pointed out that according to the way the City measures the effectiveness of calming devices, the bump-outs have only reduced traffic speeds by 2.5 miles per hour. It is his professional opinion that the lack of a centerline, in conjunction with the two marked bike lanes, two travel lanes, and parking on the north side of the street, will reduce speeds in excess of that amount. The appellants have argued that the effectiveness of removing a centerline as a calming technique is unproven in Eugene.

(d) The city's adopted transportation-related plans and policies.

The Traffic Engineer has noted that the City's adopted plans played a large role in his decision to remove parking spaces on the south side of W. 24th Avenue and to add bike lanes. He pointed out that bike lanes at this location have been a TransPlan project (No. 121) for more than ten years and that Administrative Order No. 58-12-02 is consistent with both Ordinance 20181 and Council Resolution 4608. The order is also consistent with Eugene Climate and Energy Action Plan goals for reducing community-wide greenhouse gas emissions and fossil fuel use.

It has been pointed out by opponents, that the City has not been consistent with implementing bicycle improvements in conjunction with repaving projects. They also point out that regardless of the draft Bicycle Plan, it appears that the planned north-south connection on Jefferson Street and the implementation of eastern W. 24th Avenue bike lanes may be abandoned due to topographic conditions (slope).

(e) Existing state and local laws regulating use of public ways.

It has been pointed out by the Traffic Engineer that state law allows cyclists to operate on city streets and that cyclists are currently using W. 24th Avenue. It is his conclusion that the removal of parking and bump-outs to accommodate striped bike lanes will add to the safety of this transportation use.

(f) The efficient use of the public way by the public.

The Traffic Engineer has found that on-street parking along W. 24th Avenue is usually underutilized and that bump-outs are hazardous to biking. Removal of parking on the south side of W. 24th Avenue will preserve the parking spaces adjacent to Graham Park and increase bike safety.

The appellants have raised two issues in regard to this criterion. First, they have argued that using W. 22nd Avenue, with connections to the Westmoreland-Fern Ridge bike path, would better serve the Friendly Area neighborhood and would be safer for bicyclists. Mr. Larsen relied heavily on the fact that W. 24th Avenue was designated to have bike lanes while W. 22nd Avenue was just a bike route and that additional path connections would have to be created to make the latter a workable alternative. He also emphasized that W. 24th Avenue was designated as a collector and therefore should be designed to accommodate a heavier flow of bicycles.

Second, the appellants argue that the parking study relied upon by staff was inadequate in that it was for too short a duration and was conducted at the wrong time of year. I believe that staff understood that the traffic study did not replicate the heavy on-street parking demand that is present on W. 24th Avenue during the summer months and knew that the removal of parking on the south side of the street would, at times of heavy usage of Graham Park, push the overflow of demand deeper into the neighborhood. I believe that this was a conscious decision by the Traffic Engineer in balancing the adverse impact to the neighborhood against the improvement to the bicycle transportation network.

(g) The use of abutting property.

In his decision to remove the parking on the south side of W. 24th Avenue, the Traffic Engineer determined that all affected properties had driveways and most had garages. He also found that the use of the parking spaces was generally

underutilized and that the administrative order retains the most parking spaces (137) of either side of the street. The Traffic Engineer consulted with Parks and Open Space staff in an attempt to understand the impact on activities that occur on Graham Field and its environs. From this consultation he determined that the highest demand for Graham Field–related parking occurred in a May–August timeframe and that parking on Polk Street and in the Kidsports parking lot served as primary support for most activities except for those occurring on the south field. As the administrative order would remove 35 parking spaces across from Graham Field this is about the number of additional cars seeking alternative parking in the neighborhood during times of high park usage.

(h) The intensity of use of the street by vehicles and pedestrians.

The Traffic Engineer has noted that W. 24th Avenue is a Major Collector and, as such, has a high intensity of use by automobiles.² The administrative order is an attempt to add additional safety for bicyclists as they interact with automobiles on W. 24th Avenue.

(i) The physical condition and characteristics of the street and abutting property.

It was pointed out by the Traffic Engineer, that the proposed paving project for W. 24th Avenue is essentially limited by the existing curbs as there is no budgeted money to widen the street and to do so would have a significant impact on adjacent property owners. The condition of the street has necessitated a complete rehabilitation of its surface and the removal of bump-outs is an effort to increase safety for cyclists.

(j) Emergencies.

In his decision to adopt Administrative Order 58–12–02, the Traffic Engineer determined that the removal of parking would not have an adverse impact on emergency services. If anything, it will remove stationary objects from one side of the street that might pose an impediment to those vehicles.

(k) The public health, safety and welfare.

One of the primary reasons for removing parking is to provide bike lanes in a manner that is safer than exists at present. Included in this analysis is the assumption that the change will lead to an increase in cycling that will reduce automobile volume and increase physical activity on the part of the community.

The Traffic Engineer has cited studies in Europe and in Minneapolis, Minnesota where the lack of a centerline has been used to safely calm traffic. The appellants

² The current volume of traffic on W. 24th Avenue is about 3,700 vehicles per day.

and opponents have questioned whether this technique will work in Eugene, especially in a situation where there will be smaller than optimal bike lanes. Eugene Code 5.055(1), however, defers to the professional judgment of the Traffic Engineer.

(l) Special events of community interest including parades and public gatherings.

In his determination of whether to remove parking on the south side of W. 24th Avenue, the Traffic Engineer considered the athletic and special events that occurred on Graham Field. He consulted with Parks and Open Space staff and measured the impact of the decision on the inventory of parking stock in the area. It is clear that he weighed the loss of 35 parking spaces adjacent to Graham Field with the impact on the neighborhood during high and low usage of the field and concluded that the administrative order reflected a better community benefit than maintaining the existing parking.

(m) Construction within or adjacent to the street.

The purpose of the administrative order was to take advantage of the pavement preservation project scheduled for W. 24th Avenue and the public meeting notices reflected this fact. The project had the potential to create a “clean slate” upon which to implement existing city transportation policies. In order to fully implement greater emphasis to bike lanes, the project represented a good opportunity to remove existing bump-outs and replace their calming effect with the lack of center-line striping.

(n) When establishing conditions upon the use of parking in the public way and city-owned parking facilities:

1. Applicable and appropriate time limits;

The administrative order does not affect time limitations on parking but rather removes parking spaces entirely. Therefore, this criterion does not appear to be relevant to this appeal.

2. The vehicle type and purpose;

This criterion does not appear to be relevant to this appeal.

3. The relative, seasonal and special event demands for parking spaces within the areas of the requested parking;

The appeal has pointed out that Graham Field is most actively used in the “Spring, Summer and Fall.” As outlined under EC 5.055(g) above, the Traffic Engineer recognized the times of most intensive usage of Graham

Field and considered the inventory of parking and the impact of losing 35 adjacent parking spaces on the neighborhood.

4. The other public uses for the property;

The appeal focuses on the preservation of parking spaces and bump-outs on W. 24th Avenue. However, alternative routes, such as using W. 22nd Avenue, were discussed at prior public meetings but were discounted as desirable options by the Traffic Engineer.

5. The location and physical characteristics of the parking area or facility;

The Traffic Engineer inventoried the parking spaces along W. 24th Avenue and determined their usage. He also considered the greater use of those facilities from May through August and the existence of alternative spaces along Polk Street and in the Kidsports parking lot. I believe there was an expectation that in times of high usage of Graham Park, there would be vehicle parking spill-over into the Friendly area neighborhood.

6. The demand for operating revenues, the costs of operations and enforcement;

The issue of revenue and cost of enforcement does not appear to be relevant or considered during the promulgation of the administrative rule or its appeal.

7. The use of parking regulations to promote city adopted goals and policies;

Obviously, the Traffic Engineer used his ability to regulate and remove parking spaces as a tool to further the City's policies and goals to increase bike safety and usage.

8. Abuse by applicants of any parking-related permits;

This criterion is not relevant to this decision to remove parking from a street.

9. The impact on nearby commercial uses;

An issue not raised in the appeal but brought up in written testimony was a question about how the reduction in parking spaces will affect the businesses on W. 24th Avenue.³ These businesses were not identified and

³ See the reference to four businesses in Exhibit 24.

it is unknown whether they are commercial uses, home occupations, nonconforming uses, or illegal businesses. The Hearings Official is not aware of any commercial zoning along W. 24th Avenue encompassed by the rehabilitation project. Without more definitive information, it is not possible to determine whether this criterion is relevant.

10. The ease of enforcing the provisions of this chapter; and

Efficiency of enforcement does not appear to be an issue raised in either the decision-making process or in the appeal. Obviously, the prohibition of parking along a street should not be a difficult matter to enforce.

11. The availability of other parking spaces.

As noted previously, the Traffic Engineer considered the remaining parking space inventory on the north side of W. 24th Avenue and the availability of parking along Polk Street and in the Kidsports parking lot. It was also noted that the 35 parking spaces lost along the south side of W. 24th Avenue would have to be absorbed into the neighborhood during times of high usage of the southern end of Graham Field.

Conclusion

As noted above, EC 5.055 only requires the Traffic Engineer to consider certain factors in making an administrative decision regarding the removal of parking spaces. It is doubtful that provision less rigorous could even be thought of as an approval standard. Regardless, it is clear that the Traffic Engineer did consider the applicable provisions of EC 5.055(1).

Noticeably absent from EC 5.055(1) are any citizen involvement criterion. It was clear from the testimony offered by the appellants and others that a more open process was expected by the neighborhood leaders, especially those who were involved in working with the city in establishing the bump-outs on W. 24th Avenue and those who have been involved in the collaborative Envision Eugene process. Traditionally, a major street repaving may be preceded by notice through the mail and through public meetings where residents are provided with information about how the project will temporarily affect their daily lives. Usually there are only minor opportunities for impacted citizens to have meaningful input into the design or implementation of the project. For various reasons, the citizen involvement process related to the “West 24th Avenue Rehabilitation Project” had this feel.

The West 24th Avenue Rehabilitation Project, however, is more than just a repaving project. It makes long-term design revisions to a portion of West 24th Avenue that will directly impact adjacent and nearby property owners and it changes aspects of the street (i.e. the bump-outs) in which many in the neighborhood have invested a substantial amount of time and energy. As a consequence, the citizen involvement efforts of the city,

while well intentioned, felt inadequate and superficial to the appellants and others in opposition to Administrative Order 58-12-02.

I don't know if there is any realistic solution to this situation. The major policy decisions, for instance, regarding the location of bike lanes and the priority of bike lanes over parking spaces, are made through legislative determinations where localized impacts are often

either not known or are never discussed. The implementation of these policies are often most economical when combined with scheduled street rehabilitation projects. Since the policy decisions have already been made the public involvement process is about how best to implement the policies not about whether the policies should be implemented. Further, the "criteria" of EC 5.055(1) reflect a clear legislative intent that the implementation will ultimately be determined by the best judgment of the Traffic Engineer and not through a set of objective standards.

In conclusion, I find that the adoption of Administrative Order 58-12-02 is consistent with the applicable standards of the Eugene Code and conforms to citizen involvement requirements, such as they are. I would hope that in the future, at the beginning stages of similar projects, that there might be a more frank discussion between city staff and the affected neighborhood leaders so that expectations about the decision-making process, and the neighborhood's role in that process, might be more realistic.

Respectfully Submitted,



Gary Darnielle
Eugene Hearings Official